

**FILED**

**FOR PUBLICATION**

SEP 02 2010

**UNITED STATES COURT OF APPEALS**

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

**FOR THE NINTH CIRCUIT**

**HERNAN ISMAEL DELGADO,**

Petitioner,

v.

**ERIC H. HOLDER Jr., Attorney  
General,**

Respondent.

No. 03-74442

Agency No. A078-461-226

**ORDER**

**KOZINSKI**, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.